

## **R381-70-3. LICENSE REQUIRED.**

Individuals and businesses that provide care for children are licensed and regulated by Child Care Licensing (CCL) unless they are specifically exempt under Utah law. The rules in this section explain who is required to be licensed. In licensed facilities, CCL rules apply to all qualifying children.

**(1) A person shall be licensed as an out-of-school-time program if they provide services:**

- (a) in the absence of the child's parent,**
- (b) in a place other than the provider's home or the child's home,**
- (c) for five or more unrelated children,**
- (d) for each individual child for less than 24 hours a day,**
- (e) on an ongoing basis, on three or more days a week and for 30 or more days in a calendar year;**
- (f) to children who are at least five years of age; and**
- (g) for direct or indirect compensation.**

### **Rationale/Explanation**

Within the early care and education system, licensing provides the baseline of protection for children and covers the broadest content, the largest number of children from birth to school age, and the largest population of providers. Licensing helps prevent various forms of harm to children—risks from the spread of disease; fire and other building safety hazards; injury; and developmental impairment from the lack of healthy relationships with adults, adequate supervision, or developmentally appropriate activities. National Center on Early Childhood Quality Assurance. Research Brief #1: Trends in Child Care Center Licensing for 2017.

### **Compliance Guidelines**

- Individuals who care for fewer than 5 children are not required by law to be regulated. However, an individual or business may request to be regulated by Child Care Licensing if they care for at least one qualifying child under the other conditions listed in 70-3(1)(a)-(h) above.
- Programs that provide 24-hour, live-in care are regulated as residential treatment facilities and are not licensed by Child Care Licensing.
- An “ongoing basis” means that children attend the program on a regular schedule, as opposed to occasional drop-in care.
- Direct compensation means that there is a cash payment for providing child care. Indirect compensation is a noncash payment of goods, time, or services for the child care that is provided.
- Noncompliance with this rule will be determined by the CCL complaint investigator.

### **Risk Level**

High

### **Corrective Action for 1st Instance**

Citation and CMP Warning

- (2) A person who is not required to be licensed may voluntarily become licensed, except for care that is for related children only or on a sporadic basis.

### **Rationale/Explanation**

When a provider cares for related children only, in order to receive child care subsidy payments from the State, the provider must obtain an approval from the Division of Workforce Services (DWS). Instructions for obtaining this approval may be found at: [childcarelicensing.utah.gov](http://childcarelicensing.utah.gov).

A license is unavailable for occasional drop-in child care.

- (3) A provider may be licensed to provide child care in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program if the part of the building requesting a CCL license is physically separated from the other building services.